

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IRENE VALENTIN, as Mother and  
Natural Guardian, of AUTUMN VALENTIN and  
IRENE VALENTIN, Individually,

Docket # 08 CV 02484

Plaintiffs,

-against-

MORRIS HEIGHTS HEALTH CENTER and  
BRONX LEBANON HOSPITAL CENTER

Defendants.

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**AFFIDAVIT IN SUPPORT  
OF MORRIS HEIGHTS HEALTH CENTER'S  
MOTION TO DISMISS**

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STATE OF NEW YORK     )

COUNTY OF ALBANY     ) ss.:

TIMOTHY S. BRENNAN, ESQ., being duly sworn, deposes and states as follows:

1. I am an attorney at law duly licensed to practice law before the Courts in the State of New York and the United States District Court for the Southern District of New York, and am an associate of the law firm of Phelan, Phelan & Danek, LLP, attorneys for the defendant Morris Heights Health Center with respect to the above-

entitled matter. As such, I am fully familiar with all of the pleadings heretofore had herein.

2. I submit this affidavit in support of Morris Heights' motion to dismiss this action pursuant to Fed.R.Civ.P. 12 (b) (6).

3. Plaintiffs commenced this action sounding in medical malpractice in the Supreme Court, State of New York, County of Bronx, by filing a Summons and Verified Complaint on or about October 15, 2007 [Docket #1, Exhibit A, Summons and Complaint].

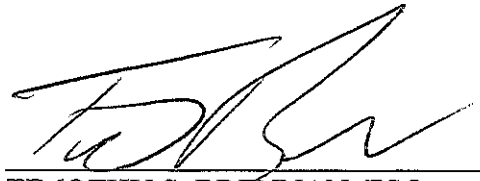
4. Thereafter, this matter was removed to this Honorable Court by the filing of a Notice of Removal on March 11, 2008 [Docket #1]. The matter was removed to this Honorable Court based upon the fact that Morris Heights Health Center has been deemed a federal employee pursuant to the Federally Supported Health Centers Assistance Act of 1995.

5. Defendant Morris Heights now moves to be dismissed from this action pursuant to Fed.R.Civ.P. 12 (b) (6).

6. As discussed in greater detail in the accompanying memorandum of law which is incorporated by reference herein, Morris Heights is no longer a proper party to this action since it has been certified as a federal employee acting within the scope of its employment.

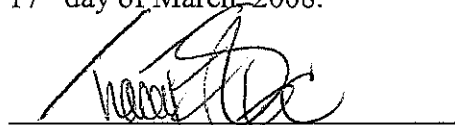
7. Accordingly, Morris Heights respectfully requests that this Honorable Court DISMISS all claims against it and grant such other and further relief as it deems

just and proper.



TIMOTHY S. BRENNAN, ESQ.  
Bar Roll Number: TB9890

Sworn to before me this  
17<sup>th</sup> day of March, 2008.

  
Notary Public - State of New York

TRACEY E. STEIN  
Notary Public, State of New York  
Qualified in Albany Co. No. 01ST6139534  
Commission Expires Jan. 9, 2010